

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

ROBERT BICKMEYER,

Plaintiff,

v.

**ORDER ADOPTING SUA
SPONTE REPORT AND
RECOMMENDATION**

19-CV-4365 (GRB)(JMW)

ROULETTE CONSTRUCTION INC,
NICK CONSULTING SERVICES INC, AND
NICHOLAS ANALITIS

Defendants.

X

GARY R. BROWN, United States District Judge:

Presently before the Court is the *sua sponte* Report and Recommendation, dated January 6, 2023, DE 63, of Magistrate Judge James M. Wicks recommending that Defendant's answer (DE 18) be stricken, and that Plaintiff promptly takes steps to seek a default judgment against Defendant. The time to file objections has expired, and no objections have been filed. Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has carefully reviewed the Report and Recommendation and finds Judge Wicks' Report and Recommendation to be exceedingly thorough, well-reasoned and free from clear error. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); *see Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court to review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."); *Piroleau v. Caserta*, No. 10-CV-5670 (SJF), 2012 WL 5389931, at *1 (E.D.N.Y. Oct. 29, 2012) ("To accept the report and recommendation of a

magistrate judge on a dispositive matter as to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record.”); *see also Killoran v. Westhampton Beach School Dist.*, No. 18-CV-3389 (DRH), 2020 WL 1433647 (E.D.N.Y. Mar. 11, 2020) (reviewing dispositive Report and Recommendation for clear error where no objections made). Nevertheless, although de novo review is not required, the Court has conducted a de novo review of the Report and Recommendation, and having reviewed the motion papers, the applicable law, and having conducted a careful review of the Report and Recommendation de novo, the Court has determined that Judge Wicks has thoughtfully and correctly applied the law. Additionally, the Court finds Judge Wicks’ recommended sanctions against the defendant – who has thrice defied orders to appear before him in pretrial conferences – especially appropriate in light of the Second Circuit’s recent admonition that “while pro se litigants may in general deserve more lenient treatment than those represented by counsel, all litigants, including [those proceeding] pro se[], have an obligation to comply with [this] [C]ourt[’s] orders.” *Publicola v. Lomenzo*, 54 F.4th 108, 111 (2d Cir. 2022) (quoting *McDonald v. Head Crim. Ct. Supervisor Officer*, 850 F.2d 121, 124 (2d Cir. 1988)) (affirming dismissal of action brought by pro se litigant proceeding under pseudonym who refused to follow district judge’s order to refile briefs using his real name).

Accordingly, the Court adopts the Report and Recommendation, dated January 6, 2023, DE 63, of Magistrate Judge James Wicks in its entirety. Plaintiff is directed to serve a copy of this Order upon the pro se defendant and file proof of service forthwith.

SO ORDERED.

Dated: February 14, 2023
Central Islip, New York

/s/ Gary R. Brown
HON. GARY R. BROWN
UNITED STATES DISTRICT JUDGE